



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
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Austin Caperton, Cabinet Secretary
www.dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Raleigh County Board of Education
Rod Lively, Director of Facilities & Maintenance
151 Cranston Dr.
Beckley WV 25801

DATE: December 10, 2018

ORDER NO.: 8898

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter “Director”), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Raleigh County Board of Education (hereinafter “Raleigh County Bd of Ed”).

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Raleigh County Bd of Ed is conducting construction activity in Sophia, Raleigh County, West Virginia. Raleigh County Bd of Ed was issued WV/NPDES Water Pollution Control Permit No. WV0115924, Registration No. WVR108335, on July 29, 2016.
2. On May 1, 2018, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of the WV/NPDES permit were observed and documented:
 - a. Section D.1. – The Permittee failed to properly operate and maintain all systems of treatment and control. Specifically, perimeter fence and diversion ditches needed maintenance, materials were stored on/against silt fence, and silt fence had holes in two separate locations.

Promoting a healthy environment.

- b. Section G.4. – The Permittee failed to comply with the approved Storm Water Pollution Prevention Plan (SWPPP). Specifically, a stone ring was not installed at the terminus of the culvert, which resulted in inadequate settling time to prevent sediment-laden water from leaving the site. In addition, the location of waste material was not noted on the SWPPP.
- c. Section G.4.d.1.B. - The Permittee failed to maintain a clean and orderly project site. Trash was at multiple locations, including against the silt fence, partially buried, and beyond the area of disturbance.
- d. Section G.4.e.2.C.v. – The Permittee failed to maintain onsite for review records that document inspections of erosion control devices and maintenance activities.
- e. Section G.4.e.2. – The Permittee failed to properly implement controls. Specifically, there were improperly installed and maintained ditch checks; diversions had cuts allowing water to flow over slopes instead of at the terminus; debris and trash were in diversions; there was a lack of outlet protection at the terminus of the amphitheater drainage; and the pump station location did not have any controls installed.
- f. Section G.4.e.2.A.i.b. – The Permittee failed to provide interim stabilization on areas where construction activities temporarily ceased for more than fourteen (14) days on waste material non-working faces.
- g. Section G.4.e.2.A.i.c. – The Permittee failed to reseed areas throughout the site that failed to germinate within thirty (30) days after seeding. These areas included non-working faces of topsoil stockpiles, sediment basins, and the eastern side of the site.
- h. Section G.4.e.2.A.ii.c. – The Permittee failed to provide inlet and outlet protection for the sediment basin.
- i. Section G.4.e.2.A.ii.f. – The Permittee failed to protect fill slopes. Specifically, the outlet to the amphitheater drainage was not protected, and cuts were made into the diversion ditch, sending water downslope without protection.
- j. Section G.4.e.2.A.ii.j – The Permittee failed to prevent sediment-laden water from leaving the site without going through an appropriate device. Specifically, sediment-laden water was leaving the site on the northern side where perimeter fencing failed and on the western side at the outlet of the sediment basin.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W18-41-003-CP was issued to Raleigh County Bd of Ed.

- 3. On June 13, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of the WV/NPDES permit were observed and documented:
 - a. Section D.1. – The Permittee failed to properly operate and maintain all systems of treatment and controls. Specifically, silt fence was in disrepair; materials were stored on top and against silt fence; silt fence needed tightened in several locations; and sumps were in need of maintenance.
 - b. Section G.4.c. – The Permittee failed to modify its SWPPP when the SWPPP proved to be ineffective in achieving the general objectives of controlling pollutants in storm water discharges.
 - c. Section G.4.d.1.B.- The Permittee failed to maintain a clean and orderly project site. Trash was observed throughout the site.

- d. Sections G.4.e.2.D and G.4.e.2.C.v. – The Permittee failed to perform and maintain records of inspections of erosion control devices after rain events.
- e. Section G.4.e.2. – The Permittee failed to properly implement controls. Specifically, there were improperly installed/maintained ditch checks; silt fence was installed in areas of high flow; silt fence was inappropriately installed; repairs to areas of silt fence failure were inadequate; and the diversion ditch terminus was inadequately and inappropriately installed.
- f. Section G.4.e.2.A.i.b. – The Permittee failed to provide interim stabilization on areas where construction activities temporarily ceased for more than fourteen (14) days. Specifically, stabilization was inadequate on the northeastern slope of the site, on the waste pile, and along the sediment trap bank.
- g. Section G.4.e.2.D.i. – The Permittee failed to inspect and clean all adjacent public and private roads of debris originating from the construction site.

As a result of the aforementioned violations, NOV No. W18-41-007-CP was issued to Raleigh County Bd of Ed.

- 4. On August 1, 2018, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of the WV/NPDES permit were observed and documented:
 - a. Section D.1. – The Permittee failed to properly operate and maintain all systems of treatment and control. Specifically, silt fence was in disrepair throughout site. Materials were stored on/against silt fence, and silt fence had holes and was overtapped or knocked down in multiple locations.
 - b. Section G.4.d.1.B.- The Permittee failed to maintain a clean and orderly project site. Specifically, trash was at multiple locations, including against silt fence, partially buried, and beyond the perimeter fence.
 - c. Section G.4.e.2.C.v. – The Permittee failed to maintain on-site for review adequate records that document inspections of erosion control devices and maintenance activities.
 - d. Section G.4.e.2. – The Permittee failed to properly implement controls. Specifically, the diversion on the north side of the site was improperly installed; ditch checks were not properly installed/maintained; there was a lack of outlet protection at the terminus of the amphitheater drainage; protection for drop inlets was not installed; and the sediment trap had erosion gullies and the banks had not been stabilized.
 - e. Section G.4.e.2.A.i.b. – The Permittee failed to provide interim stabilization on areas where construction activities temporarily ceased for more than fourteen (14) days. Specifically, there was inadequate stabilization on waste material non-working faces and the banks of the sediment basin.
 - f. Section G.4.e.2.A.i.c. – The Permittee failed to reseed areas throughout the eastern side of the site that failed to germinate within thirty (30) days after seeding.
 - g. Section G.4.e.2.A.ii.f. – The Permittee failed to protect fill slopes, resulting in erosion channels on several slopes.

As a result of the aforementioned violations, NOV No. W18-41-010-CP was issued to Raleigh County Bd of Ed.

5. On September 19, 2018, WVDEP personnel conducted a review of facility records from the time period of 3rd quarter 2016 through 2nd quarter 2018. During this review, the following violations of the terms and conditions of Raleigh County Bd of Ed's WV/NPDES permit were observed:
 - a. Section G.5 and as outlined in the WV/NPDES Permit Approval Letter - Two (2) moderate exceedances of Raleigh County Bd of Ed's permit parameters were observed and documented (Table 1).
 - b. Section G.5 and as outlined in the WV/NPDES Permit Approval Letter – Raleigh County Bd of Ed failed to properly submit Discharge Monitoring Reports (DMRs) within twenty (20) days following the end of the following reporting periods:
 - i. Outlet No. 001 - 3rd quarter 2016 and 2nd quarter 2018.
 - ii. Outlet No. 002 - 3rd and 4th quarters 2016 and 1st and 2nd quarters 2018.
6. On December 4, 2018, WVDEP personnel and representatives of Raleigh County Bd of Ed met to discuss the terms and conditions of this Order.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Raleigh County Bd of Ed shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit.
2. Within thirty (30) days of the effective date of this Order, Raleigh County Bd of Ed shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Raleigh County Bd of Ed will achieve compliance with all terms and conditions of its WV/NPDES permit. The plan of corrective action shall make reference to WV/NPDES Permit No. WV0115924, Registration No. WVR108335, and Order No. 8898. The plan of corrective action shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Raleigh County Bd of Ed's permit violations, Raleigh County Bd of Ed shall be assessed a civil administrative penalty of thirty-four thousand four hundred thirty-two

dollars (\$34,432) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund within thirty (30) days of the effective date of this Order. Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. Payment shall include a reference to the Order No. and shall be mailed to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Raleigh County Bd of Ed hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Raleigh County Bd of Ed agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Raleigh County Bd of Ed does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Raleigh County Bd of Ed other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Raleigh County Bd of Ed shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Raleigh County Bd of Ed becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Raleigh County Bd of Ed shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Raleigh County Bd of Ed intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Raleigh County Bd of Ed (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Raleigh County Bd of Ed of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Raleigh County Bd of Ed to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Raleigh County Bd of Ed, its successors and assigns.
7. This Order shall terminate upon Raleigh County Bd of Ed's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.


Rod Lively, Director of Facilities & Maintenance
Raleigh County Board of Education

1/14/19
Date

Public Notice begin:

Date

Public Notice end:

Date

Harold D. Ward, Acting Director
Division of Water and Waste Management

Date

Table One: Raleigh County Bd of Ed DMR Exceedance Summary

Outlet 002 DMR Exceedances - MAX, DAILY - 3rd qtr 2016 through 2nd qtr 2018						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
3/2017	Total Recoverable Iron	mg/L	1.5	6.66	344%	-	X	-
6/2017	Total Recoverable Iron	mg/L	1.5	8.61	474%	-	X	-

Outlet 002 - Totals			Degree of non-compliance		
Min	Mod	Maj	Min	Mod	Maj
0	2	0			

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 1: Silt fence needs maintenance.



Photo 2: Material stored on silt fence knocking it over and debris/trash beyond first layer of silt fence.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 3: Hole in silt fence.



Photo 4: Debris/trash is throughout site and silt fence needs maintenance.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 5: Silt fence needs maintenance and trash is against silt fence.



Photo 6: Silt fence needs maintenance and trash is beyond Limits of Disturbance (LOD).

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 7: Material (brick and wood) stored against silt fence, which needs maintenance.



Photo 8: Trash and debris piled throughout the site.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 9: Trash and debris stored against silt fence.



Photo 10: Trash imbedded into dry soil.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 11: Silt fence needs maintenance, trash is against silt fence, and site needs reseeded.



Photo 12: Waste stockpile is not on plan and does not have temporary stabilization.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 13: Non-working side of waste stockpile without temporary stabilization.



Photo 14: Non-working face of topsoil stockpile and area around stockpile need reseeded.



Photo 15: Non-working face of topsoil stockpile and surrounding area need reseeded, and silt fence needs maintenance.



Photo 16: Unprotected inlets entering sediment basin. (view south)

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 17: Unprotected inlets entering sediment basin (view north).



Photo 18: No controls installed at installation of pad for pump station.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 19: Erosion gully and no controls at installed pump station pad.



Photo 20: Stone ring not installed, which does not allow adequate settling time.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 21: Improper installation of ditch check on west side of site.



Photo 22: Improperly maintained ditch check with debris in diversion.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 23: Improperly maintained ditch check, trash in diversion, and reseeding needed.



Photo 24: Reseeding needed, and trash throughout site.

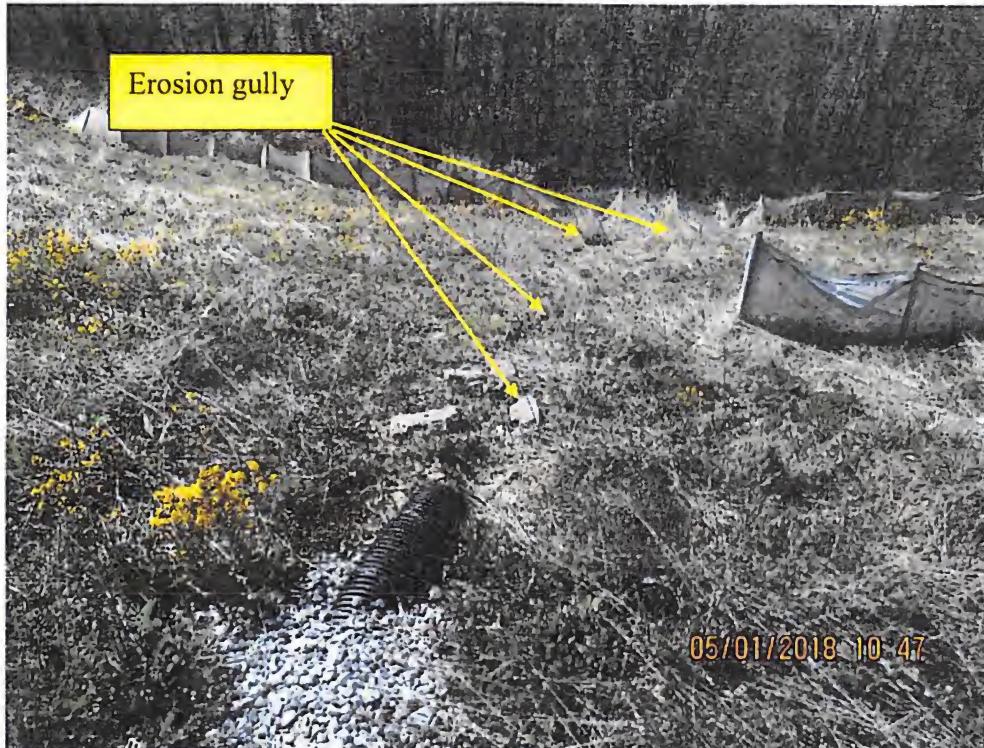


Photo 25: Unprotected outlet of amphitheater drainage creating erosion gully along slope.



Photo 26: Silt fence near amphitheater needs maintenance, resulting in erosion gully over slope.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 27: Erosion gully at silt fence near amphitheater.



Photo 28: Silt fence compromised, allowing sediment-laden water to leave the site on north side.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 29: Sediment deposits downslope of compromised silt fence.



Photo 30: Sediment deposits on outlet of sediment basin.



Photo 31: Sediment deposits on stone ring around sediment basin outlet.



Photo 32: Sediment deposits breaching perimeter fencing at sediment basin outlet.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 5/1/2018



Photo 33: Sediment deposits downslope of perimeter fencing at sediment basin outlet.



Photo 34: Sediment deposits downslope of sediment basin outlet.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 1: Dirt piled against silt fence on eastern side of site.

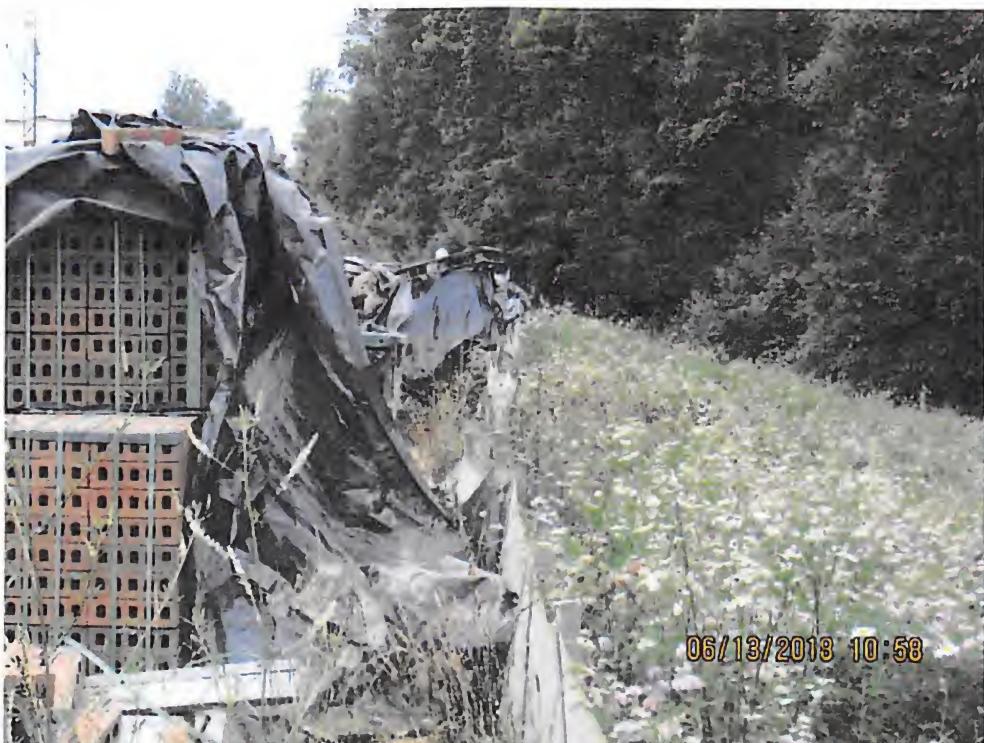


Photo 2: Material piled against and on silt fence on eastern side of site.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 3: Dirt and trash piled against silt fence.



Photo 4: Improper disposal of concrete on southeastern side of site.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 5: Improper disposal of concrete on northwestern side of site.



Photo 6: North of water tower. Improper use of silt fence in high flow area, lack of temporary stabilization, and failure to add controls when installed controls failed.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 7: North of water tower.



Photo 8: Site of control failure and repair.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 9: Silt fence failure and repair, causing erosion gully.



Photo 10: Silt fence repair.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 11: Installed ditch check near terminus of diversion.



Photo 12: Trash and debris on eastern side of site.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 13: Poor housekeeping at entrance to site.



Photo 14: Trash and debris on south side of site.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 15: Terminus of diversion ditch on west side of site.



Photo 16: Inappropriate installation of silt fence.



Photo 17: Lack of temporary stabilization on bank of sediment basin, and failure of silt fence allowing erosion gully on bank of sediment basin.



Photo 18: Waste pile without temporary stabilization.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School, 6/13/2018



Photo 19: Northern view of Tank Hill Road at junction with construction entrance.



Photo 20: Southern view of Tank Hill Road near construction entrance

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 1: Northeastern side of site where reseeding is needed.



Photo 2: Drop inlet lacks protection.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 3: Hole in silt fence repaired with rocks, and trash along perimeter.



Photo 4: Erosion channel over fill slope with repaired silt fence.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 5: Trash and debris on north side of site.



Photo 6: Improperly installed diversion on north side of site, and silt fence improperly used at terminus. Erosion gully in diversion channel, and silt fence is full of sediment.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 7: Sediment deposits in improperly installed silt fence at terminus of north side diversion.



Photo 8: Silt fence in disrepair, and trash throughout site.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018

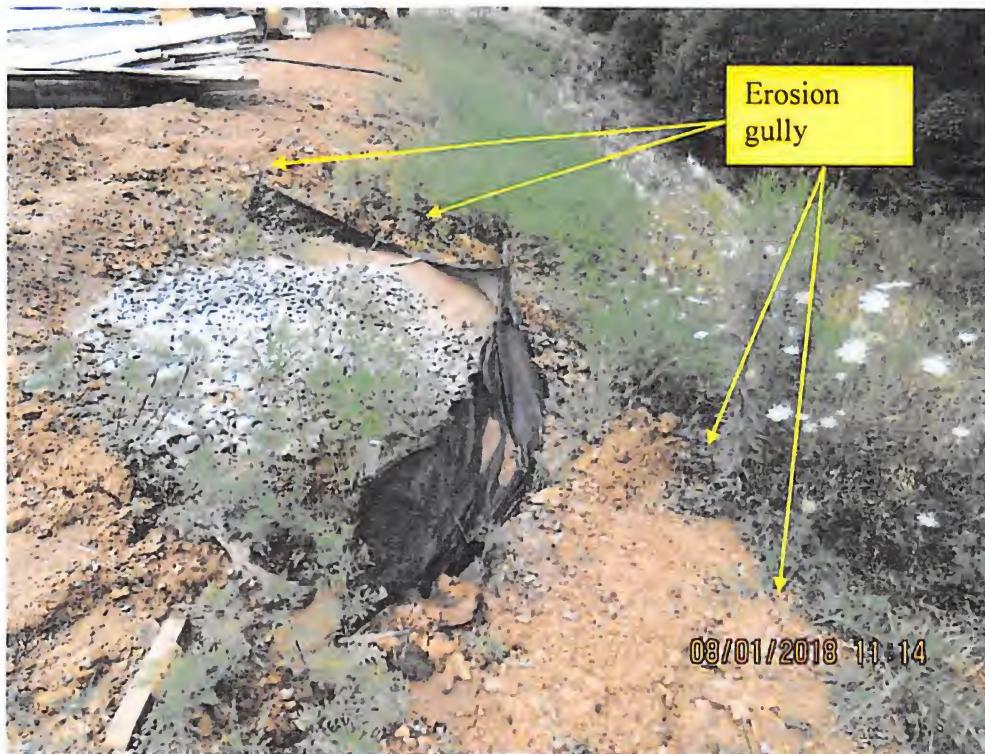


Photo 9: Sediment build-up at silt fence improperly installed in erosion gully. Additional erosion gullies around filled silt fence. Sediment and further erosion down-gradient of silt fence.

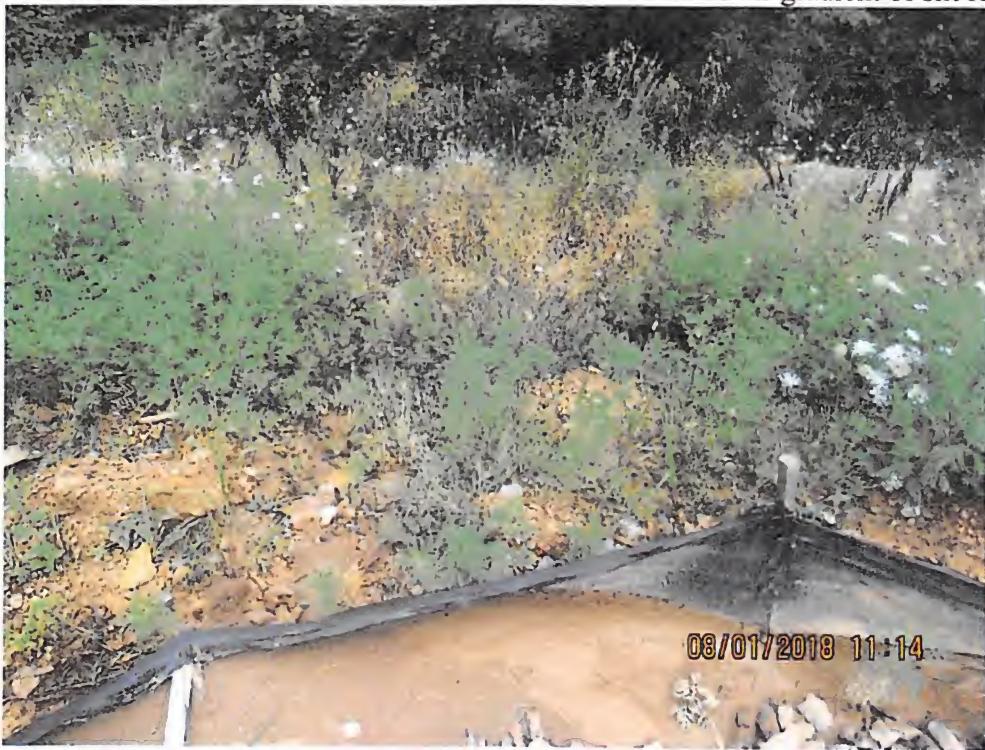


Photo 10: Sediment and erosion occurring down-gradient of improperly installed silt fence.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 11: Silt fence in disrepair, and trash improperly disposed.



Photo 12: Sediment basin with unstabilized bank.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 13: Undercut silt fence surrounding sediment basin and rock repair. Erosion channel down-slope of silt fence.



Photo 14: Improperly installed ditch check in southern diversion.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 15: Improperly installed ditch check.



Photo 16: Improperly installed ditch check with trash.

RALEIGH CNTY BD OF ED, WVR108335, Raleigh County Elementary School,
8/1/2018



Photo 17: Diversion without established outlet.

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party: Raleigh County Board of Education Receiving Stream: _____

Treatment System Design Maximum Flow: _____ MGD

Treatment System Actual Average Flow: _____ MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#											
			2a, 2b, 2c, 2j, 3a, 3e, 4a, 4d	2c, 3c, 4b	2d, 3d, 4c	2f, 3f, 4e	2g, 4f	2h	2i, 4g	3b	3g	5a	5b	
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1	
b)	Toxicity of Pollutant	0 to 3	1	1	1	1	1	1	1	0	1	1	0	
c)	Sensitivity of the Environment	0 to 3	1	1	1	1	1	1	1	0	1	1	0	
d)	Length of Time	1 to 3	2	2	2	2	2	1	2	1	1	1	3	
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	1	1	0	1	1	0	
	Average Potential for Harm Factor		1.2	1.2	1.2	1.2	1.2	1	1.2	0.4	1	1	0.8	No
2)	Extent of Deviation Factor	Factor Range												
	Degree of Non-Compliance	1 to 3	2	2	2	2	2	2	2	2	2	2	3	

Potential for Harm Factors:

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
2a, 2b, 2e, 2j, 3a, 3e, 4a, 4d	Moderate	Moderate	\$3,200	1	\$3,200
2c, 3c, 4b	Moderate	Moderate	\$3,200	1	\$3,200
2d, 3d, 4c	Moderate	Moderate	\$3,200	1	\$3,200
2f, 3f, 4e	Moderate	Moderate	\$3,200	1	\$3,200
2g, 4f	Moderate	Moderate	\$3,200	1	\$3,200
2h	Minor	Moderate	\$1,500	1	\$1,500
2i, 4g	Moderate	Moderate	\$3,200	1	\$3,200
3b	Minor	Moderate	\$1,200	1	\$1,200
3g	Minor	Moderate	\$1,500	1	\$1,500
5a	Minor	Moderate	\$1,500	2	\$3,000
5b	Minor	Major	\$1,900	1	\$1,900
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$28,300

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$2,830
6.2.b.4 - Compliance/noncompliance history -			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)	\$6,102		\$6,102
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease			\$0
6.2.b.3 - Cooperation with the Secretary		10	(\$2,830)
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$6,132
			\$34,432

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	\$6,102
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$6,102
Comments: Avoided cost of required weekly inspections and storm event inspections for a time period of fourteen (14) weeks.	